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Attn: Mr. Don Hajec, Director of Technologies Department
3600 Unit Regarding Request for Reconsideration of
Application 10,083,771 Filed 02,27,2002 By
Huey Thomas Crochet
Inventor - Huey Thomas Crochet
Examiner - Kurt Rowan
ART Unit - 3643

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Sir,

I am a pro-se applicant and on November 03, 2003, a letter of Non-Compliance was mailed to me concerning my brief in support of appeal. Among the objections stated by the examiner are the applicants latest claims 9 - 10 which were rejected in the final office action and claims 6, 7, and 8 of the original disclosure.

The claims 6, 7 and 8 were included in the applicants brief because they clearly and definitively state the structure of the applicants fishing weight.

The applicant was cited for said structure in the final office action only which denied said applicant the opportunity to argue in support of said structure during the normal course of the examination. The applicant contends that his weight's cylindrical body and spin means are supported by claims 6, 7 and 8 of the original disclosure.

The applicant submits that if the examiner will not let said applicant show proof that his structure is correct then the examiners citation against the applicant will stand.

Regarding the currently rejected claims 9 - 10 the examiner is adamant that the applicant must stand or fall on said claims.

The applicant submits that to do so would be an admission on the part of said applicant that the examination process was not flawed and that the claims were written by a pro-se applicant who has had the benefit of a fair examination.

The heart of the applicants argument is that the examiner misperceives the reference he is using for citations against the applicant. Combinations are being stated that can be made only through the examiners misperception and the applicant contends that such combinations are invalid as is the fig. 13 of Adams.

The authority claimed by the examiner for references comes from Adams et al, patent number 6,145,240 date of patent November 14, 2000.

Adams is a patent for a snag resistant fishing weight having several alternate embodiments.

The preferred embodiment of Adams employs a means of internal flotation which allows for a vertical mode of snag resistant operation while being retrieved.

The alternate embodiments of Adams also employ some means of internal flotation except for the fig. 13 which is an all metal construct and is solid.

The applicant claims the Adams authority also and will reference such to refute the examiners final response.

The applicant did not understand why he could not accurately describe his fishing weight without running afoul of the fig. 13 of Adams until reading the examiners final response and realizing, what the applicant will henceforth refer to as, the examiners misperception of Adams.

First, the radically different material composition of the fig. 13 of Adams cannot operate in the same manner as the Adams preferred embodiment.

Adams acknowledges such in his specification on p. 6 lines 61 – 67 and p. 7 lines 1 – 6 wherein Adams states that the fig. 13 will retain many of the benefits of the preferred embodiment however he does not state what such benefits are nor does he offer an alternative mode of operation for the fig. 13. He does state however that fig. 13 is outwardly identical to all of his other weights minus the wire portion.

In the examiners final response he has clearly contradicted Adams as to the mode of operation described by Adams and conjectures that the applicants fishing weight and the fig. 13 of Adams have the same basic geometry and therefore must operate in the same manner. Examiners final response lines 2 – 6.

The applicant submits that the Adams preferred embodiment and the fig. 13 alternate embodiment are virtually identical outwardly but radically different internally.

The first employs flotation to achieve a vertical mode of snag resistant operation while the other is a solid metal construct which can not achieve a vertical orientation. Adams p. 5 lines 52 – 63, p. 6 lines 61 – 67, p. 7 lines 1 – 6.

The applicant submits the above statements to be a prime example of why the examiners conjecture, that the applicants weight and the fig. 13 must operate in

the same manner, is wrong. The applicant further submits that the examiners statements of basic geometry and sameness of operation defy the concept of invention.

In order to make such a comparison the examiner contradicts the mode of operation described by Adams. (Examiners final response lines 2 – 6) Adams states multiple times that his weights do not spin and makes no exceptions for alternate embodiments. He explains at length why his weights do not spin and actually states that if certain angles of curvature are not correct they will spin and are more prone to snagging. Adams p. 4, lines 50 – 62

Adams attributes angles of curvature to his weights as part of the balance that operates to inhibit the twisting or spinning of said weights.

Such statements by Adams are found on p. 4 lines 28 – 62 wherein fig. 13 is distinctly included between lines 30 – 36.

Other statements by Adams that his weights do not spin are found in Adams on p. 1 line 50 – 57, p. 2 lines 18 – 23, p. 4 lines 30 – 35 and particularly p. 4 lines 50-62.

The applicant submits that the examiner does not understand that in order for fig. 13 to operate in the same manner described in the applicants specification, it would have to be retrieved along the uneven terrain of the bottom riding on the apex, of the back of the curve, with both ends pointed up to present on obliquely upright angle to obstacles for causing a spin upon encountering said obstacles during retrieve.

The applicant further submits that such retrieval is impossible for fig. 13 because of the round body and uniformly curved banana shape of fig. 13. Such a configuration would only fall over on its side to be dragged across the bottom with no snag resistant properties past those of ordinary weights of the prior art. If by chance fig. 13 were to land on the bottom with both ends up, it could not maintain such orientation as pulling on the line would cause the eyelet portion to roll forward along the back of the curve to achieve alignment with the force and direction of the line, while the rearward portion would rise up in a scorpions tail like effect causing even more instability and again would fall on its side. Adams p. 3 lines 34 – 36.

The applicants drawing shows that said applicants fishing weight has a straight short angle at the line attachment end and a long, straight, heavier rearward portion.

When force is applied to the line the shorter angled portion rises to an obliquely upright condition while the longer rearward portion remains prone on the bottom and rolls laterally to accommodate the rising of the shorter, lighter angled portion. When sufficient force is applied, the weight moves across the bottom and maintains the upright condition of the leading shorter angled portion, which makes first contact with obstacles, and under a fast steady retrieve will cause a spin through impact with said obstacles. Since the line is always over and across obstacles, the entire length of the weight will be above the point of line attachment and the obstacle that the line is being dragged across when said weight reaches the top of the spin.

The examiner also does not understand that the preferred embodiment of Adams cannot operate for the tight – line method of fishing whereby a taut line must be achieved between the weight on the bottom and the end of the angler's rod. Such method is described in the applicants operation of invention paragraph one. Adams p. 3 lines 52 – 57 and p. 5 lines 52 - 60.

The applicant submits that the preferred embodiment of Adams is designed to do just the opposite and is meant only to hold bait or lures to a chosen distance from the bottom while being constantly on the move. Adams background field of invention p. 1, p.2 lines 7 – 12, p. 2 lines 18 – 23, p. 1 lines 50 – 57, p. 3 lines 47 – 57, p. 5 lines 26 – 28 , p. 5 lines 52 – 60, p. 6 lines 9 – 18. Actions described by Adams for his weight are always preceded by the words when in use. When in use the body of the Adams present invention is up and off of the bottom. Adams p. 3 lines 55 – 57, p. 5 lines 52 – 60.

The examiner states in his final response that fig. 13 and the applicants weight uses multiple parts however, Adams, refutes such. Adams p. 1 lines 34 – 48, Adams p. 8 – claim 1 Adams p. 6 lines 36 – 38. The applicant has never argued that Adams uses multiple parts and has always argued that Adams is unitary.

Sir, the applicant submits that his snag resistant fishing weight produces new results which are clearly stated in said applicants abstract and objects and advantages section which the examiner has ignored. Such results are fast steady retrieves through snag laden areas on a horizontal plane of operation and the ability to also function as a static weight for the tight-line method of fishing.

Adams cannot achieve a fast retrieve for two reasons. One is that Adams maintains contact with the bottom in order to give the angler a feel for the bottom and the second is that the actual snag resistant movements required by the vertical orientations of Adams preferred embodiment takes time to

accomplish. Such is clearly indicated by Adams on p. 2 lines 7 – 12 and p. 2 lines 18 – 23.

Adams maintains contact with the bottom while being finessed through snags and only leaves the bottom upon hopping over obstacles to large to go around or though. Adams p. 1 background of invention lines 8 – 16. Adams p. 2 lines 18 – 23.

The applicant would like to make one further point regarding the examiners determination that said applicants fishing weight and that of Adams fig. 13 must operate in the same manner.

By such comparison the examiner clearly expects the fig. 13 to be snag resistant once endowed with the applicants mode of operation, however he has cited the applicant for 35 U.S.C. 112 wherein he states that the applicants spin means is confusing.

The applicant submits that the examiner clearly is not confused or he would not expect fig. 13 to operate in a snag resistant manner by this same spin means. The applicant further submits that by this the examiner not only contradicts Adams but also himself.

The applicant submits that his structure appears nowhere in the Adams patent and neither does said applicants mode of operation unless the examiner is allowed to change prior art by changing the mode of operation Adams describes for his weights.

The applicant respectfully requests the directors close scrutiny of said applicants request in the sincere hope that there will be a subsequent reconsideration of the applicants application.

During a conversation with Mr. Randy Green of Petitions the applicant mentioned that the examiner entered an amendment into the record after the final office action which said applicant, did not request. The applicant only became aware of the amendment after talking to Mr. Gregg Feinberg of the Appeals office while inquiring as to how to write an appeal brief. Such action by the examiner is included in the applicants appeal brief and Mr. Green stated that this should also be included in the applicants request for reconsideration.

The applicant was advised to petition the commissioner by an agent in the pool provided by the toll free number of the patent office. Said applicant did not know that a link in the chain had been missed by doing this.

The applicant received the examiners letter of non-compliance which was dated November 3, 2003 and on November 25, 2003 the patent office received the applicants petition to the commissioner.

The applicant notes that he had only thirty days to comply and remarks that the M.P.E.P. rules stipulate that pro-se applicants need only substantially comply with sections 1, 2 and 8 of the appeals process, however on the advice of Mr. Gregg Fienberg of the Appeals office said applicant included all nine sections.

The section requiring information about amendments contains the complaint by the applicant the he requested no amendment after the final office action.

Both P.O.M. and Mr. Green say that the petition is in Art Unit 3643, however no one in 3643 seems to be able to locate said petition.

As the applicant writes this communication the date is March 1, 2004.

The applicant feels that he is being held in limbo and would welcome a resolve of this situation in order to take any necessary further steps toward attaining a patent.

Since the applicants petition cannot be located this request is being sent to you in its stead.

Thank You,

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